



OFFICE OF THE DEPUTY COMMISSIONER - LEGAL MATTERS

LEGAL BUREAU BULLETIN

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- I. SUBJECT: LAWS OF 2015
- II. INTRODUCTION SET FORTH ARE VARIOUS AMENDMENTS AND NEW LAWS ENACTED DURING 2015 WHICH ARE OF INTEREST TO MEMBERS OF THE SERVICE

NOTE: New matter is set in *italics*. All new laws are in effect as of the date of publication of this Bulletin unless otherwise indicated. Because of the abbreviated descriptions of new laws contained in this Bulletin, it is strongly recommended that members of the service read the applicable law before taking enforcement action, and direct any questions they may have to the Legal Bureau.

FEDERAL LAWS

SLAIN OFFICER FAMILY SUPPORT ACT OF 2015 PUBLIC LAW NO. 114-7

The "Slain Officer Family Support Act of 2015" authorizes a charitable tax deduction under the Internal Revenue Code for cash contributions made for the relief of the families of slain NYPD Detectives WenJian Liu and Rafael Ramos even if the contributions are made for the exclusive benefit of the families. The law allows a taxpayer who makes a contribution to claim a deduction in 2014 for contributions made between January 1, 2015, and April 15, 2015. The law also provides that the recordkeeping requirements for the charitable tax deduction will be satisfied if the taxpayer produces a telephone bill showing the name of the organization to which a contribution was made, with the date and amount of the contribution.

The law also confirms that payments made on or after December 20, 2014, and on or before October 15, 2015, to the spouse or any dependents of Detectives Liu or Ramos by a tax-exempt organization, will be treated as related to the purpose of the organization's tax exemption, and will not be treated as inuring to the benefit of any private individual, as long as the payments are made in good faith using a reasonable and objective formula which is consistently applied.

JAMES ZADROGA 9/11 HEALTH AND COMPENSATION REAUTHORIZATION ACT PUBLIC LAW NO. 114-113

Public Law No. 114-113 reauthorizes the “James Zadroga 9/11 Health and Compensation Act of 2010.” The law appropriates \$3.5 billion in funding to extend the World Trade Center (WTC) Health Program until the year 2090. The WTC Health Program provides federal funding for medical monitoring and treatment benefits to eligible emergency responders (i.e., firefighters and police officers) and recovery and cleanup workers who responded to the September 11th terrorist attacks. The program also provides health evaluations and treatment for eligible people who were present in the dust or dust cloud on September 11th or who worked, resided, or attended school, childcare, or adult daycare in the World Trade Center area for a period of time on September 11th and/or during the following months. The program includes treatment and payment for all medically necessary health and mental health care expenses for an eligible individual related to a WTC-related health condition, including necessary prescription drugs.

The law sets yearly caps for funding for the health program for the first 10 years and then ties future increases to the Consumer Price Index for all urban consumers. The law also allows any unexpended funding in each year to be available for use in future years.

The law extends the September 11th Victim Compensation Fund for an additional five years and provides an additional \$4.6 billion to pay claims. The Fund is managed by a Special Master, appointed by the Attorney General, to provide compensation for any individual (or a personal representative of a deceased individual) who suffered physical harm or was killed as a result of the September 11th terrorist attacks or the debris removal efforts that took place in the immediate aftermath of those attacks. The minimum payment award of \$10,000 is eliminated to permit smaller awards for claimants with fewer losses. The law also requires that the Special Master re-evaluate the Fund’s policies once a year to ensure that spending and award determinations prioritize those suffering from the most debilitating conditions.

STATE LAWS

ALCOHOLIC BEVERAGE CONTROL LAW

POWDERED OR CRYSTALLINE ALCOHOL CHAPTER 231

Chapter 231 amends Alcoholic Beverage Control Law Section 3(1) to include within the definition of “alcoholic beverage” any “powder or crystal” containing alcohol, spirits, wine or beer, commonly referred to as “Palcohol,” a brand name. ABC Law Section 100 is also amended, to add a new subdivision (1-a) which *prohibits the sale, offer for sale, or other provision for consumption, of any powdered or crystalline alcoholic product.*

CIVIL SERVICE LAW

PUBLIC EMPLOYEE WHISTLEBLOWER PROTECTION ACT CHAPTER 585

Chapter 585 repeals Section 75-B(2)(b) of the Civil Service Law thereby removing the statutory requirement that whistleblower public employees first notify their immediate supervisors of alleged misconduct, in instances where that immediate supervisor is the subject of the allegation. The provisions of this law do not affect the regulations enumerated in Patrol Guide procedure 207-21, "Allegations of Corruption and Other Misconduct Against Members of the Service." P.G. 207-21 mandates any MOS having or receiving information regarding corruption or misconduct to report the information directly to the Internal Affairs Bureau Command Center. Under no existing procedure is an MOS required to report misconduct to his or her immediate supervisor.

EDUCATION LAW

COLLEGE POLICIES REGARDING SEXUAL ASSAULTS CHAPTER 76

Chapter 76 amends several sections of the Education Law to require all colleges and universities in New York State, whether public or private, to adopt comprehensive procedures and guidelines in order to combat sexual assault. The guidelines must include a uniform definition of "affirmative consent" and a statewide policy that provides amnesty from violations of campus drug use or alcohol policies, for those who report incidents of sexual assault, dating violence, stalking or domestic violence. The law also requires that every institution ensure that those who disclose violations to a school representative be advised of their right to notify university police, campus security, local law enforcement and/or the State Police.

Affirmative consent is defined in new Education Law Section 6441 as "a knowing, voluntary, and mutual decision among all participants to engage in sexual activity." The law goes on to state that consent "can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. Several additional principles must be included in the school's code of conduct, including that consent may be initially given but withdrawn at any time, and that consent cannot be given when a person is incapacitated.

The law explicitly states that *nothing in it should be construed to limit in any way the provisions of the Penal Law that apply to a criminal action analogous to the behavior that would violate a school's code of conduct. The law affirms that any action pursued through the criminal justice process, i.e. the investigation and prosecution of sexual assault by the police and district attorneys, is to be governed by the Penal Law and Criminal Procedure Law. Notably, this new law does not affect the standards for consent found in Article 130 of the Penal Law, and therefore violation of a college's affirmative consent policy does not necessarily establish a sex offense as defined by the Penal Law.*

In situations where violations are the subject of concurrent school disciplinary proceedings and criminal justice investigations and proceedings, new Education Law Section 6444(5)(c)(iv) provides that temporary delays in the disciplinary proceedings may be requested by municipal entities while law enforcement gathers evidence. However, temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.

EXECUTIVE LAW

FAMILY MEMBERS OF HOMICIDE VICTIMS CHAPTER 104

Chapter 104 amends two sections of the Executive Law. Sections 624(1)(b) and 626(1), to add *grandchildren* to the list of family members of homicide victims who are eligible to receive awards from the Office of Victim Services to reimburse counseling expenses.

SERVICE ANIMALS CHAPTER 141

Chapter 141 is intended to make the State Human Rights Law consistent with the Americans with Disabilities Act in the treatment of individuals using service dogs. It repeals the current definition of guide dog, hearing dog and service dog contained in Executive Law Section 292(31), and amends Executive Law Section 296 to include specific language *prohibiting discrimination against, or denying entry to, an individual accompanied by a professionally trained guide dog, hearing dog, or service dog, whether the individual is the disabled person or the trainer*. It further amends Section 296(2)(d) to incorporate ADA standards in determining what “reasonable modifications” apply to the use of a service animal in a place of public accommodation. Chapter 141 also amends Civil Rights Law Section 47-b to require that for purposes of employment discrimination, a dog accompanying a disabled person must be trained by a qualified person.

DISCRIMINATION BASED ON FAMILIAL STATUS CHAPTER 365

Chapter 365 amends Executive Law Section 296(1-1-a) to prohibit discrimination based on familial status. The purpose of the law is to combat discrimination of individuals who are parents or guardians of children under the age of eighteen. Familial status is defined under the Executive Law *as any person who is pregnant or has a child who has not attained the age of 18, or any person who is in the process of securing legal custody, or has legal custody, or is the designee of a parent, of any individual who has not attained the age of 18*.

REASONABLE ACCOMMODATION FOR PREGNANCY-RELATED CONDITIONS CHAPTER 369

Chapter 369 amends several parts of Executive Law Sections 292 and 296 and adds new Executive Law Section 292(21-f) to require employers to perform a reasonable accommodation analysis for employees with pregnancy-related conditions. A pregnancy-related condition is a *medical condition related to pregnancy or childbirth, limited to conditions which, upon the*

provision of reasonable accommodation do not prevent reasonable performance of the occupation held. A reasonable accommodation, however, would not have to be granted if it imposes an undue hardship on the employer and the law requires that an employee must cooperate in providing medical or other information to verify the existence of a disability or pregnancy-related condition.

GENERAL BUSINESS LAW

LICENSING OF PRIVATE INVESTIGATORS CHAPTER 115

Chapter 115 amends the General Business Law to separate the licensing of private investigators from the licensing of bail enforcement agents and watch, guard or patrol agencies. The law amends General Business Law Section 70 to apply only to private investigators, and increases from *a class B to a class A misdemeanor the penalty for acting as a private investigator without being licensed or otherwise violating the provisions of Section 70 of General Business Law.* The law creates a new Section 70-a governing the licensing of bail enforcement agents and watch, guard and patrol agencies, and leaves the class B misdemeanor penalty in place for violations by those entities. Finally, the law explicitly authorizes *the District Attorney, in addition to the State Attorney General, to prosecute criminal actions for violations of the laws generally governing private investigators, and watch, guard and patrol agencies.*

GENERAL MUNICIPAL LAW

TRANSPORT OF INJURED POLICE CANINE CHAPTER 549

Chapter 549 adds a new Section 122-c of the General Municipal Law to allow emergency medical service paramedics and emergency medical technicians to transport *any police work dog injured in the line of duty to a veterinary clinic or similar such facility, provided that there are no persons requiring medical attention or transport at such time.*

PENAL LAW

CONCEALMENT OF A HUMAN CORPSE CHAPTER 242

Chapter 242 adds a new Penal Law Section 195.02 entitled, "Concealment of a Human Corpse." The law states that a person is guilty of a Class E Felony when, *having a reasonable expectation that a human corpse, or a part thereof, will be produced for or used as physical evidence in an official proceeding or criminal autopsy/examination as part of an investigation, conceals, alters or destroys such corpse with the intent to prevent its production or discovery.*

FORCIBLE TOUCHING CHAPTER 250

Chapter 250 amends Penal Law Section 130.52 relating to Forcible Touching by making it a Class A misdemeanor *to subject a person to sexual contact on public transportation for the perpetrator's sexual gratification and with intent to degrade or abuse the victim*. The new law seeks to address so-called "subway grinding" and it applies to any sexual contact by the perpetrator, clothed or unclothed, upon any part of the victim that takes place on public transportation.

TRAFFICKING VICTIMS PROTECTION AND JUSTICE ACT CHAPTER 368

Chapter 368 re-establishes the New York State Interagency Task Force on Human Trafficking, which features representatives from the Division of Criminal Justice Services, State Department of Health, State Police, State Department of Children and Family Services and other state agencies to examine the extent of trafficking in New York and to identify essential services for victims. The law extends the expiration date of this task force to September 1, 2019. Chapter 368 also amends several sections of the Penal Law, Correction Law, Mental Hygiene Law, and Criminal Procedure Law, as listed below:

- Amends several sections of the Penal Law to replace the term "prostitute" with "*person for prostitution*" and to make them gender neutral;
- Amends Penal Law Section 60.13 to add *Aggravated Patronizing a Minor for Prostitution* in the Third, Second, and First Degrees as felony sex offenses;
- Amends Penal Law Section 70.02 and adds Sex Trafficking to the list of class B violent felony offenses and Labor Trafficking to the list of class D violent felony offenses;
- Amends Penal Law Section 135.35 to remove as a ground for the offense of Labor Trafficking unlawfully providing a controlled substance to a person with intent to impair such person's judgment;
- Adds a new Penal Law Section 135.37 to create a new crime, *Aggravated Labor Trafficking*, a class C felony, for when *a person compels or induces another to engage in labor or recruits, entices, harbors, or transports such person to engage in labor by means of intentionally unlawfully providing a controlled substance to such person with intent to impair that person's judgment*. Amends Penal Law Section 460.10 to add this new crime to the definition of "criminal act" under the Enterprise Corruption statute;
- Amends Criminal Procedure Law Section 700.05(8) to add Aggravated Labor Trafficking and Promoting Prostitution in the Third Degree to the definition of "designated offense" for the purpose of obtaining eavesdropping and video surveillance warrants;
- Adds new Penal Law Section 230.01 to provide an affirmative defense in prostitution cases under Penal Law Section 230.00 (Prostitution), Penal Law Section 230.03 (Prostitution in a School Zone), or Penal Law Section 240.37(2) (Loitering for the Purpose of Engaging in Prostitution) that defendant's participation in the offense was a result of having been a victim of Compelling Prostitution (Penal Law Section 230.33), Sex Trafficking (Penal Law

Section 230.34), or Trafficking under the federal Trafficking Victims Protection Act (22 USC §§ 7101-7112).

- Amends Penal Law Section 230.05 to raise the age of the victim under the Patronizing a Person for Prostitution in the Second Degree statute from *less than 14 to less than 15 years old*;
 - Amends Penal Law Section 230.06 to add a new subsection that states that a person, being 18 years or older, is guilty of Patronizing a Person for Prostitution in the First Degree *when the victim is less than 13 years old*;
 - Adds new Penal Law Section 230.08 to create the crime of *Patronizing a Person for Prostitution in a School Zone, an E felony, for when a person, being 21 years old or more, patronizes a person for prostitution and the person patronized is less than 18 years old at a place that he or she knows, or reasonably should know, is a school zone*;
 - Adds new Penal Law Section 230.11 to create the new crime of *Aggravated Patronizing a Minor for Prostitution in the Third Degree, an E felony, for when a person, being 21 years old or more, patronizes a person for prostitution and the person patronized is less than 17 years old and the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct with the person patronized*;
 - Adds new Penal Law Section 230.12 to create a new crime of *Aggravated Patronizing a Minor for Prostitution in the Second Degree, a D felony, for when a person, being 18 years old or more, patronizes a person for prostitution and the person patronized is less than 15 years old and the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct with the person patronized*;
 - Adds new Penal Law Section 230.13 to create the new crime of *Aggravated Patronizing a Minor for Prostitution in the First Degree, a B felony, for patronizing a person that is less than 11 years old, or, being 18 years old or more, patronizing a person less than 13 years old when the person guilty of patronizing engages in sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual conduct with the person patronized*;
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- Amends Penal Law Section 230.30 to raise the age of the victim from *less than 16 to less than 18 years old* under Promoting Prostitution in the Second Degree;
 - Amends Penal Law Section 230.32 to raise the age of the victim under Promoting Prostitution in the First Degree *from less than 11 to less than 13 years old and adds that a person is also guilty of the same crime when he or she is 21 years old and the victim is less than 15 years old*;
 - Amends Penal Law Section 230.33 to lower the age of the person guilty of Compelling Prostitution from *21 to 18 years old or older and raises the age of the victim from less than 16 to less than 18 years old*;

- Amends Penal Law Section 230.35 to raise the age of the victim under Promoting or Compelling Prostitution; *Accomplice from less than 17 to less than 18 years old;*
 - Amends Penal Law Section 230.40 to add that a person is guilty of Permitting Prostitution when, having possession or control of premises *or vehicle* which he or she knows are being used for prostitution purposes *or for the purpose of advancing prostitution*, he or she fails to make reasonable effort to halt or abate such use;
 - Adds a new Penal Law Section 240.37(3) to the Loitering for the Purpose of Engaging in Prostitution Offense statute to add that *a person who remains or wanders about in a public place and repeatedly beckons, stops or attempts to stop or engage a passer-by in conversation, stops or attempts to stop motor vehicles, or interferes with the free passage of other persons for the purpose of Patronizing a Person for Prostitution is guilty of a violation, and is guilty of a class B misdemeanor if having been previously convicted of Patronizing a Person for Prostitution in the Third, Second, or First Degrees, or Patronizing a Person for Prostitution in a School Zone.*
 - Amends Criminal Procedure Law Section 440.10 to add the ground upon which a court may vacate a conviction judgment where the arresting charge was Prostitution in a School Zone, and the defendant's participation in the offense was a result of having been a victim of Labor Trafficking, Aggravated Labor Trafficking, or Compelling Prostitution in addition to Sex Trafficking or Trafficking under the TVPA;
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- Adds to definition of "sex offense" under Mental Hygiene Law Section 10.03(p) (Sex Offenders Requiring Civil Commitment or Supervision) Aggravated Patronizing a Minor for Prostitution in the Third, Second, and First Degrees;
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- Adds to the definition of "sex offense" under Correction Law Section 168-a(2)(a)(i) (Sex Offender Registration Act) Aggravated Patronizing a Minor for Prostitution in the Third, Second, and First Degrees, Sex Trafficking, and Promoting Prostitution in the Third Degree where the person prostituted is in fact less than 17 years old;

PUBLIC LEWDNESS CHAPTER 373

Chapter 373 amends Section 245 of the Penal Law, "Public Lewdness," to expand the class B misdemeanor of public lewdness to include *the commission of a lewd act while trespassing and being observed by a lawful occupant of a dwelling*. The law states that a person may be charged with public lewdness when he or she performs a lewd act while committing violation-level trespass in a dwelling and being so observed by a lawful occupant.

ASSAULT OF EMPLOYEE PROVIDING PATIENT CARE CHAPTER 423

Chapter 423 amends Section 120.05 of the Penal Law by adding new subdivisions 3-c and 11-c to classify assault on a person providing direct patient care as an assault in the second degree. A person is guilty of assault in the second degree when, *in preventing an employee from providing direct patient care, he or she causes physical injury to such employee*. Additionally, a person is guilty of assault in the second degree when, with intent to cause physical injury, *he or she causes physical injury to an employee providing direct patient care*. The law defines a person providing direct patient care as any direct-care staff who is not a nurse but whose principal responsibility is to carry out direct patient care for one or more patients in a variety of health care settings.

Effective November 1, 2016.

ASSAULT OF PUBLIC HEALTH SANITARIAN CHAPTER 472

Chapter 472 amends Sections 120.05(3) and 120.05(11) of the Penal Law to include assault on a public health sanitarian or New York City Health Sanitarian as an assault in the second degree. A person is guilty of assault in the second degree when, *in preventing a health sanitarian (i.e. public health inspectors) from performing a lawful duty, he or she causes physical injury to the sanitarian*. Additionally, a person is guilty of assault in the second degree when, with intent to cause physical injury to a health sanitarian, he or she causes physical injury to the sanitarian.

Effective November 1, 2016.

ASSAULT OF EMPLOYEE OF SECURE TREATMENT FACILITY CHAPTER 477

Chapter 477 amends Section 120.05 of the Penal Law by adding a new subdivision 13 to provide that a person is guilty of assault in the second degree when, *while confined to a secure treatment facility and with intent to cause physical injury to an employee of such treatment facility, he or she causes physical injury to such employee*.

Effective November 1, 2016.

ASSAULT OF EMERGENCY MEDICAL TECHNICIAN CHAPTER 487

Chapter 487 amends Section 120.05(11) of the Penal Law to provide that a person is guilty of assault in the second degree when, with intent to cause physical injury, *he or she causes physical injury to an emergency medical service paramedic or emergency medical service technician while performing their assigned duties*.

PUBLIC AUTHORITIES LAW

VIOLATIONS OCCURRING ON BUSES CHAPTER 460

Chapter 460 amends Public Authorities Law, Section 1209-a(3), granting the authority to adjudicate violations occurring on MTA buses, to the Transit Adjudication Bureau (TAB).

PUBLIC HEALTH LAW

SMOKING IN AND AROUND AFTER-SCHOOL PROGRAMS

CHAPTER 100

Chapter 100 amends Public Health Law Section 1399-o and NYC Administrative Code Section 21-120.1 to prohibit smoking *within 100 feet of the entrances, exits, or outdoor areas of any licensed after-school program*, during the hours of operation of the program. The law also requires owners of such premises to post signage that indicates the specific time period during which smoking is prohibited. Note that these types of smoking restrictions are primarily enforced in New York City by the Department of Health and Mental Hygiene through civil penalties.

SINGLE-USE TATTOO NEEDLES AND INK

CHAPTER 230

Chapter 230 adds a new Public Health Law Section 467 to require tattoo and body piercing parlors to use *only single-use ink and single-use, sterile disposable needles*. The tattoo artist or body piercing specialist must display and open this equipment in the presence of the customer, and both the customer and the artist/specialist must sign a form confirming that this was done. The studio must give a copy of the form to the customer, and retain a copy itself for seven years. Willful violation of this provision is a misdemeanor.

NEW SCHEDULE I CONTROLLED SUBSTANCES

CHAPTER 370

Chapter 370 amends Section 3306 of the Public Health Law, "Schedules of Controlled Substances," to add new substances, collectively referred to as a synthetic drug known as "N bomb," to the list of schedule I stimulants. "N Bomb" is intended to mimic the effects of LSD as a hallucinogen.

SOCIAL SERVICES LAW

STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND MALTREATMENT

CHAPTER 436

Chapter 436 amends several provisions in the Social Services Law regarding the New York statewide register of child abuse and maltreatment. The law authorizes a "criminal justice agency" (which includes a District Attorney or police officer) when conducting an investigation of a missing child (where the agency suspects that the child's parent/guardian/legally responsible person is the subject of a report), or that child, or the child's sibling is another person named in the report, to have access to reports made to the central register, including photographs. If the reports are not made available, the agency conducting the investigation may contact the Office of Children and Family Services for an immediate administrative review.

LOCAL LAWS

EXPANSION OF SCHOOL SAFETY REPORTING LOCAL LAW 93

Local Law 93 amends Administrative Code Section 14-152, commonly referred to as the “Student Safety Act.” The law significantly expands current quarterly reporting by the Police Department to the City Council regarding its activity in public schools in several ways, including requiring that the *quarterly reporting be posted on the Department's website*. The new expanded reporting requirements are described below:

- Reporting on arrests made and summonses issued not only by School Safety Division personnel but also by any uniformed officer in a public school or on school grounds.
 - Reporting on student misconduct constituting violation-level offenses as defined in the Penal Law, instead of what were previously termed “non-criminal incidents.”
 - Reporting on arrests, summonses and violations drilled down to the level of school building rather than patrol borough, and reflecting:
 - the officer’s command;
 - whether the subject was a student, school personnel, or other;
 - whether the incident occurred in connection with magnetometer scanning;
 - whether force was used and the type of force used; and
 - whether the incident was school-related.
 - New reporting on the use of “mechanical restraints” (e.g. handcuffs).
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- Reporting the demographics of the subjects of arrests, summonses, violations, and mechanical restraints drilled down to precinct level rather than patrol borough.
 - New reporting on the use of magnetometers in school buildings, including an annual report on the number and types of contraband seized.
 - New reporting on complaints against School Safety Agents (SSAs), drilled down to precinct level, including the number of open complaints, number of days pending, result of complaints, number of SSAs with prior complaints, number of injuries to SSAs, and number of associated ambulance transports.

Prior to enactment of the law, the Department had been required to provide a quarterly report to the Council that included data on arrests made and summonses issued by the School Safety Division.

SUSPENSION OF CIGARETTE DEALER LICENSES FOR SALES OF K2 LOCAL LAW 95

Local Law 95 amends the Administrative Code to provide for the *revocation, suspension, or refusal to renew a license to deal cigarettes where the applicant/dealer has engaged in the sale of synthetic drugs or imitation synthetic drugs.* Any licensed cigarette dealer who knowingly manufactures, sells, offers or displays for sale, or possesses with intent to sell any synthetic cannabinoid (K2) or synthetic phenethylamine (a hallucinogen) is subject to a mandatory suspension of his/her cigarette dealer's license for 30 days. Subsequent violations within a three-year period result in mandatory revocation of the license unless the license holder provides documentation that shows that a subsequent license holder acquired the business.

SALE OF SYNTHETIC DRUGS AS BASIS FOR NUISANCE ABATEMENT LOCAL LAW 96

Local Law 96 amends Administrative Code Section 7-703(g) to add the sale of a synthetic drug or imitation synthetic drug to the list of factors that allow the declaration of a public nuisance under the City's Nuisance Abatement Law. Therefore, the law allows the Department to initiate nuisance abatement actions against such locations and permits courts to issue restraining and closing orders against premises that repeatedly violate the prohibitions on the sale of synthetic drugs and imitation synthetic drugs.

PENALTIES FOR MANUFACTURE, DISTRIBUTION AND SALE OF SYNTHETIC CANNABINOIDS AND SYNTHETIC PHENETHYLAMINE (K2) LOCAL LAW 97

Local Law 97 adds new Administrative Code Section 10-203 which contains prohibitions on the *manufacture, distribution, or sale of a synthetic cannabinoid or synthetic phenethylamine, including K2 and bath salts, and other synthetic drugs.* Even though some of these substances are labeled as "not intended for human consumption," they are still prohibited under Local Law 97 based on the oral, visual, or written representations by the manufacturer or vendor, regarding use or effect. In addition, the *possession of ten or more packets or individual containers* of these substances is presumptive evidence that the possessor intends to sell or distribute the substances. Violation of Section 10-203(a) is an unclassified misdemeanor punishable by a fine of not more than \$5,000, imprisonment for up to one year, or both. Additionally, violators may also be subject to a civil penalty of not less than \$1000 or more than \$10,000, recoverable at the Office of Administrative Trials and Hearings.